

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

04 12013 NMG

BRANDON ASSOCIATES, LLC,
Plaintiff,

v.

FAILSAFE AIR SAFETY SYSTEMS CORP.,
Defendant.

MAGISTRATE JUDGE RBE

Civil Action No.

RECEIPT # _____
AMOUNT \$ 50
SUMMONS ISSUED N/A
LOCAL RULE 4.1 _____
WAIVER FORM _____
MCF ISSUED _____
BY DPTY. CLK. EUM
DATE 9/17/04

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that the Defendant, *Failsafe Air Safety Systems Corp.*, pursuant to 28 USC §1446, L.R. D.Mass. 81.1, and Fed.R.Civ.P. 11, has this day filed in the office of the Clerk of the United States District Court for the District of Massachusetts, a Notice of Removal of the above entitled action from the Superior Court of Suffolk County, in the Commonwealth of Massachusetts (Civil Action No. 04-3970H), to the United States District Court for the District of Massachusetts. The grounds for removal are as follows:

1. The above entitled civil action was instituted by the Plaintiff against the Defendant by the Service of a Summons and Order of Notice, and Verified Complaint on the 10th day of September, 2004, and this action is now pending in the Superior Court of Commonwealth of Massachusetts, for the County of Suffolk.

2. The action involves a controversy between citizens of different states. Upon information and belief, at the time of the commencement of this action, the Plaintiff was and still is a Massachusetts limited liability company with its principal place of business in Boston, Massachusetts.

3. The Defendant, *Failsafe Air Safety Systems Corp.*, is now and at all times intervening, a corporation organized and existing under the laws of the state of Delaware and having their principal place of business in Tonawanda, New York. Defendant, *Failsafe Air Safety Systems Corp.* is not incorporated in the state of Massachusetts and does not have its principal place of business in Massachusetts.

4. The United States District Court for the District of Massachusetts has original jurisdiction over the Plaintiff's Complaint pursuant to 28 U.S.C. §1332. Plaintiff's Complaint alleges Breach of Contract, Reach and Apply, Libel, and Unfair and Deceptive Acts or Practices causes of action. Such allegations will presumably exceed an amount in controversy of \$75,000 and arise between a Massachusetts limited liability company with its principal place of business in Boston, Massachusetts, and a Delaware Corporation; therefore, this action is one that may be removed to this Court by the Defendant pursuant to 28 U.S.C. §1441.

5. Written notice of the filing of this notice will be served upon all adverse parties as required by law.


6. A certified copy of this Notice of Removal will also be served on all adverse parties and filed with the Clerk of the Court, Massachusetts Superior Court for Suffolk County, where this case was originally filed.

7. The Defendant, *Failsafe Air Safety Systems Corp.*, files herewith a copy of all process, pleadings, and orders served upon it in this action as part of this Notice, which includes the Summons and Order of Notice, Verified Complaint, Plaintiff's Motion For A Preliminary Injunction and Certificate of Service.

WHEREFORE, the Defendant, *Failsafe Air Safety Systems Corp.*, respectfully requests that this Court consider this Notice of Removal as provided by law governing the removal of

cases to the United States District Court for the District of Massachusetts; that this Court will make the proper orders to effect the removal of this case to the United States District Court for the District of Massachusetts; and that this Court will make such orders as may be appropriate to effect the preparation and filing of a true record of all proceedings that may have been in this Court.

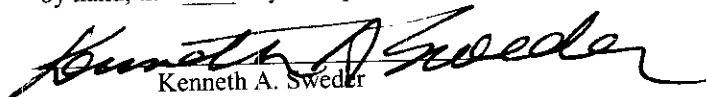
DEFENDANT,
Failsafe Air Safety Systems Corp.
By its attorneys,


Kenneth A. Sweder, BBO# 489840
Laurie M. Ruskin, *Of Counsel*, BBO# 630374
SWEDER & ROSS LLP
21 Custom House Street, Suite 300
Boston, MA 02110
(617) 646-4466

Dated: September 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served
upon the attorney of record for each of the other parties in this action
by hand, this ____ day of September, 2004.


Kenneth A. Sweder